

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHEILA KINCAID, individually,
and on behalf of other
members of the general public
similarly situated,

Plaintiff,

v.

EDUCATIONAL CREDIT MANAGEMENT
CORPORATION, an unknown
business entity; and ECMC
GROUP, an unknown business
entity,

Defendants.

No. 2:21-cv-00863-TLN-JDP

**AMENDED PRETRIAL SCHEDULING
ORDER**

After reviewing the parties' Joint Status Report, the Court
makes the following Pretrial Scheduling Order.

I. SERVICE OF PROCESS

All named Defendants have been served and no further service
is permitted without leave of court, good cause having been
shown.

II. ADDITIONAL PARTIES/AMENDMENTS/PLEADINGS

No joinder of parties or amendments to pleadings is
permitted without leave of court, good cause having been shown.

1 III. JURISDICTION/VENUE

2 Jurisdiction is predicated upon 28 U.S.C. § 1332.

3
4 **PHASE I - CLASS CERTIFICATION**

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6 IV. DISCOVERY

7 The Court hereby bifurcates the discovery process. All
8 discovery in Phase I shall be limited to facts that are relevant
9 to whether this action should be certified as a class action and
10 shall be completed by **February 10, 2023**. In this context,
11 “completed” means that all discovery shall have been conducted so
12 that all depositions have been taken and any disputes relative to
13 discovery shall have been resolved by appropriate order if
14 necessary and, where discovery has been ordered, the order has
15 been obeyed. All motions to compel discovery must be noticed on
16 the magistrate judge’s calendar in accordance with the local
17 rules of this Court.

18 V. DISCLOSURE OF EXPERT WITNESSES

19 All counsel are to designate in writing, file with the
20 Court, and serve upon all other parties the name, address, and
21 area of expertise of each expert that they propose to tender at
22 class certification not later than **March 10, 2023**.¹ The
23 designation shall be accompanied by a written report prepared and
24 signed by the witness. The report shall comply with Fed. R. Civ.
25 P. 26(a) (2) (B).

26 Within twenty (20) days after the designation of expert

27

¹ The discovery of experts will include whether any motions based on
28 Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993) and/or
 Kumho Tire Co. v. Carmichael, 119 S. Ct. 1167 (1999) are anticipated.

1 witnesses, any party may designate a supplemental list of expert
2 witnesses who will express an opinion on a subject covered by an
3 expert designated by an adverse party. The right to designate a
4 supplemental expert for rebuttal purposes only shall apply to a
5 party who has not previously disclosed an expert witness on the
6 date set for expert witness disclosure by this Pretrial
7 Scheduling Order.

8 For purposes of this Pretrial Scheduling Order, an "expert"
9 is any person who may be used at trial to present evidence under
10 Rules 702, 703, and 705 of the Federal Rules of Evidence, which
11 include both "percipient experts" (persons who, because of their
12 expertise, have rendered expert opinions in the normal course of
13 their work duties or observations pertinent to the issues in the
14 case) and "retained experts" (persons specifically designated by
15 a party to be a testifying expert for the purposes of
16 litigation).

17 Each party shall identify whether a disclosed expert is
18 percipient, retained, or both. It will be assumed that a party
19 designating a retained expert has acquired the express permission
20 of the witness to be so listed. Parties designating percipient
21 experts must state in the designation who is responsible for
22 arranging the deposition of such persons.

23 All experts designated are to be fully prepared at the time
24 of designation to render an informed opinion, and give their
25 bases for their opinion, so that they will be able to give full
26 and complete testimony at any deposition taken by the opposing
27 party.

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1 VI. CLASS CERTIFICATION

2 The Motion for Class Certification shall be filed by **May 10,**
3 **2023.** The parties are responsible for ensuring that all motions
4 are filed to allow for proper notice of the hearing under the
5 Federal Rules of Civil Procedure and/or Local Rules. Local Rule
6 230 governs the calendaring and procedures of civil motions.

7 Failure to comply with Local Rule 230(c), may be deemed
8 consent to the motion and the Court may dispose of the motion
9 summarily.

10 VII. POST-CERTIFICATION CASE ACTIVITY

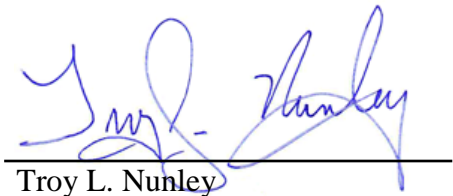
11 All other necessary dates and deadlines, including dates for
12 the Final Pretrial Conference and Trial, along with all deadlines
13 associated therewith, will be set by a Supplemental Pretrial
14 Scheduling Order to be issued following the ruling on the Motion
15 for Class Certification.

16 VIII. OBJECTIONS TO PRETRIAL SCHEDULING ORDER

17 This Pretrial Scheduling Order will become final without
18 further order of the Court unless objections are filed within
19 *fourteen* (14) days of service of this Order.

20 IT IS SO ORDERED.

21 DATED: July 18, 2022

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24 Troy L. Nunley
25 United States District Judge
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